IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 23586 of 2004

Between:

T. Seethapathi, S/o. Sri T. Adiseshaiah,
R/o. H.No. 1-36-11, 2nd Lane, Maruthinagar, Guntur.

..... PETITIONER

AND

1 The District Judge, Guntur.
2 The Inquiry Authority-cum-IV Additional District Judge,
Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction, particularly one in the nature of MANDAMUS declaring the Proceedings dated 4-12-2004 of the 2nd Respondent rejecting the Petitioner's request for engaging a Legal Practitioner to defend his case in the Inquiry No.4 and also for furnishing of vital documents as arbitrary, illegal, violative of principles of natural justice,

contrary to the well settled Judgments of the Hon'ble Supreme Court and by setting aside the said Proceedings dated 4-12-2004 and direct the respondents to permit the Petitioner to engage a Legal Practitioner for defending his case in Enquiry No.4 and also to furnish copies of vital documents sought for and pass such other relief or reliefs.

Counsel for the Petitioner : DR.P.B.VIJAY KUMAR

Counsel for the Respondents: SMT.M.BHASKARA LAKSHMI (SC FOR APHC)

The Court made the following :

ORAL ORDER:

(per Hon'ble The Chief Justice)

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1. Petitioner is aggrieved by the two orders passed on 4th December, 2004, by the inquiring authority in Departmental Enquiry No.4 of 2004 of district Guntur, rejecting the petitioner's request to set aside the ex parte order of the departmental inquiry and to engage a legal practitioner. The disciplinary authority appointed Sri N. Basavaiah, Principal Sessions Judge-cum-IV Additional District Judge, Guntur, as inquiring authority and Sri P. Mohan Rao, Principal Senior Civil Judge, Guntur, as the Presenting Officer. The inquiring authority as well as the presenting authority are well versed in law and are holding Judicial posts. Petitioner's request for appointment of a legal practitioner was turned down by inquiring authority on the ground that such a request can be allowed in case legal practitioner is appointed by the disciplinary authority. May be that Presenting Officer and Inquiring Officer are not legal practitioners, but they are Judicial Officers. Therefore, the order rejecting the prayer of the petitioner to have the assistance with legal practitioner is bad in law and is liable to be set aside. Similarly the prayer to

set aside ex parte order is also not sustainable in law. This prayer was rejected on the ground that there is no provision that the inquiring authority can set aside an ex parte order. This view of the inquiring authority is not inconsonance with law. There is no prohibition as such and the purpose of the inquiry officer is to inquire into the matter effectively in which due opportunity must be afforded to the delinquent. The said order is also liable to be set aside.

2. Learned counsel for the petitioner submits that the documents sought to be supplied to the petitioner by representation dated 16.10.2004 were not supplied to the petitioner.

3. Having regard to the above, this writ petition is disposed of with direction that disciplinary authority – 1st respondent will permit the petitioner to avail the services of a legal practitioner and proceedings taken against the petitioner setting him ex parte are hereby set aside. Direction is issued to proceed with the inquiry in accordance with law and to consider the representation of

the petitioner dated 16.10.2004 and pass orders thereupon in accordance with law. No costs.

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DEVINDER GUPTA. C.J.,

M. NARAYANA REDDY. J.,

Dated: 20.12.2004.

VRK.

To

1 The District Judge, Guntur.
2 The Inquiry Authority-cum-IV Additional District Judge, Guntur.

3. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.P.NO. 23586 OF 2004.

(Order of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 20.12.2004.

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